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SUBJECT: KUWAIT: SIXTH ANNUAL ANTI-TRAFFICKING IN PERSONS REPORT
(TIP)

REF: A. STATE 3836

1B. KUWAIT 505

Sensitive but unclassified. Not for internet distribution.

11. (U) Embassy Kuwait's submission for the 2006 Trafficking in Persons Report (TIP) follows. Responses are keyed to paragraphs 21-24 of reftel.

12. (SBU) 21A: Kuwait is a destination country for internationally trafficked men and women. There is no trafficking in areas outside of GOK control. The GOK keeps records on the number of foreign workers in country. Source countries work with their labor offices to keep tabs on their workers. These numbers are reliable. Few of Kuwait's expatriate workers, however, meet the definition of a trafficked person: "trafficked through force, fraud, or coercion into domestic servitude, commercial sexual exploitation, forced or bonded labor, coerced sweatshop labor, forced marriage, or other slave-like conditions." Therefore it is nearly impossible to determine numbers of trafficking victims. Those most commonly subjected to labor exploitation are adult female domestic workers. Men are also victims of exploitation, especially those working in low-skill sectors. Despite occasional reports of child labor problems (which, in Kuwait, necessarily means noncitizen children) source country embassies do not report this as being a notable problem. The Ministry of Social Affairs and Labor (MOSAL) announced in January 2006 that it would step up its inspections for violators of the ban on child labor. There does not seem to be a specific bias against people of any one nationality or ethnicity. However, the nationals from countries with disproportionately uneducated workforces, such as Bangladesh and India, tend to suffer more.

13. (SBU) 21B: Strict enforcement of measures to combat TIP issues in Kuwait remained a problem. One major area of improvement in the past year is the use of underage camel jockeys. The GOK imposed a strict ban on the use of underage jockeys and Post has visited the camel races several times, for major and minor races, and found no evidence of children at work as jockeys. There have been no other credible reports of the use of children as camel jockeys. Post assess that trafficked child camel jockeys were not prevalent in Kuwait even before the strict regulations imposed by the GOK. In general, many Kuwaiti Government officials willingly and openly address trafficking issues and the Government has formed an interagency committee to deal with the issue. MOSAL's labor dispute center (for non-domestic workers) helps workers in salary disputes. It is well-organized. The Ministry of Interior (MOI) runs a

domestic labor office. NGOs and source country embassy legal aides state that the courts are receptive to domestic workers bringing cases to court. Post has numerous court documents awarding restitution and punitive damages to domestic workers whose employers have violated their contracts. NGOs and source country embassies state that the courts are neutral arbiters of labor disputes and are an effective tool for laborers to pursue their grievances.

Bureaucratic inertia renders all major policy changes difficult, including those on TIP issues. Many victims are domestic workers who face non-payment, poor working conditions (too many hours, too little food), or sexual harassment. Their situations are especially difficult to monitor since they work in homes, where inspections are unlikely. Non-domestic workers sometimes arrive in Kuwait to find that they have been duped. The contracts they sign in Arabic in Kuwait are often for less money than the ones they signed in their home countries. Some workers have found their contracts to be with bogus companies, who simply wanted to sell visas. These workers are then left destitute, illegally resident in the country, and vulnerable to exploitation. Visa and residence permit selling leaves some workers irreversibly in debt, though actual forged documents do not seem to be a major problem. We do not have reports of victims being forcibly transported. They come willingly with the hope of better-paying jobs than can be found in their home. Non-domestic workers have better legal protection, and MOSAL carries out regular safety and administrative inspections.

¶4. (SBU) 21C: The Government of Kuwait does not lack financial resources to tackle TIP. On the other hand, the fact that most of the problems are among domestic workers makes enforcement difficult.

Kuwaiti officials note that the expatriate labor community's size (66% of the population), diversity (one official mentioned that there are 120 nationalities represented in Kuwait), and low educational profile make combating TIP difficult. Corruption is a problem, and there are credible allegations that work visas are

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illegally sold to brokers. Workers who enter the country via such schemes would be especially vulnerable to exploitation.

¶5. (SBU) 21D: The Government of Kuwait monitors its immigration patterns in general and has a committee for trafficking issues. Post will continue to examine Kuwait's efforts to monitor its trafficking in persons efforts.

¶6. (SBU) 22A: The GOK recognizes that labor exploitation occurs, but the prevalence of foreign workers in the private sector and domestic labor market can overwhelm official enforcement measures. The GOK defines trafficking more narrowly than the USG. It considers trafficking to be systematic, whereas it views the situation in Kuwait as consisting of isolated, individual cases of workers whose rights were abused. The GOK acknowledges that some workers face difficulties, but it questions whether that constitutes a systemic problem and points to the fact that the vast majority of foreign workers come to Kuwait and remain voluntarily in order to take advantage of higher wages and better work conditions than in their home countries. The general view is that a few publicized, extreme cases of worker abuse have maligned the entire labor system.

¶7. (SBU) 22B: There is a four-party commission to deal with issues of trafficking in persons: MOSAL, Ministry of Interior, The Municipality, and The Ministry of Commerce. MOSAL has the lead.

¶8. (SBU) 22C: While the GOK has not initiated any nation-wide anti-TIP campaigns, it disseminated widely a minimum wage scale to increase the salaries of domestic workers. The GOK and source country embassies are also working with the United States on an U.S.-funded project to raise awareness to TIP issues. The Kuwait Union of Domestic Labor Offices (KUDLO) published a magazine and has taken out ads in newspapers to educate Kuwaiti employers about the legitimate rights of their employees. Source country Embassy officials have told Post that they think the most useful TIP strategy is to raise awareness among Kuwaitis.

¶9. (SBU) 22D. The country does not support other programs to prevent trafficking.

22E is missing from the State cable.

¶10. (SBU) 22F. The Government is in the final stages of the approval process for issuance of a license to KUDLO for establishing a shelter. In early February, however, the Kuwait Municipality closed down KUDLO headquarters (where the shelter was to be housed) on a zoning technicality. KUDLO sees this as a temporary setback caused by a personal disagreement between a Government official and KUDLO's general manager. They say the worst-case scenario is that they would have to move their headquarters to a different area (ref B). Source country Embassies have become the de facto shelters for domestic laborers. The Government of Kuwait does not create any difficulties for Embassies who wish to provide services to domestic laborers.

¶11. (SBU) 22G. The GOK monitors immigration and emigration statistics. Post hopes to provide before the end of the review process more detailed statistics on immigration/emigration patterns to identify any evidence of trafficking in persons.

¶12. (SBU) 22H. The GOK established a high level, governmental working committee to look into issues of abusive and/or forced labor.

¶13. (SBU) 22J. See 22H.

¶14. (SBU) 23A. There are several laws specifically addressing trafficking in persons issues, providing a legal framework for effectively stopping TIP exists:

-- Kuwaiti criminal law criminalizes kidnapping, detention, and slave trading, with penalties as severe as life imprisonment.
-- Article 31 of the constitution protects against restriction of movement, torture, or "degrading" treatment.
-- Article 42 explicitly prohibits forced labor.
-- Law 16 of 1960 criminalizes forced labor or exploitation as well as maltreatment of all kinds toward individuals. If the maltreatment amounts to torture and leads to death, it is considered first degree murder. In addition, sexual crimes can lead to execution.
Incitement of (sexual) immorality can result in up to seven years'

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imprisonment.

-- MOSAL decree 105 of 1994 forbids forced labor.
-- Ministerial decree 149 of 2004 forbids underage employment in dangerous industries.
-- Ministerial decree 152 of 2004 forbids the use of camel jockeys younger than 18 years.

¶15. (SBU) 23B. There are no laws specifically for trafficking.

¶16. (SBU) 23C. The maximum penalty for rape is death.

¶17. (SBU) 23D. Prostitution is illegal, as are the activities of pimps, clients, brothel owners and those who facilitate or encourage prostitution, with prison sentences up to seven years depending on level of involvement and the age of the sex workers.

¶18. (SBU) 23E. The GOK does not keep statistics specifically on the topic of trafficking. It therefore has to gather statistics from various agencies, and it is difficult to keep track of crimes that have a trafficking element. Post continues to press the GOK on the importance of identifying TIP-related crimes and anticipates providing additional information before the end of the TIP rating period.

¶19. (SBU) 23F. Trafficking in Kuwait is not organized on a large scale. There are many small agencies that hire out domestic workers, and they range in the effectiveness with which they prepare their workers for their jobs and advocate for them in case of problems. These agencies are regulated by the Government. Many domestic labor offices have been closed by MOSAL for various legal violations. There are cases of medium-to-large companies engaging in "residence permit selling," whereby they sell visa and/or residence permits to foreign workers, who arrive in Kuwait to find there is no work or even that the company does not really exist. Again, it seems that

this is done in individual cases rather than as a large-scale scheme. The Government has laws to protect against such abuses and has carried out investigations and punished violating companies in 2005-2006. There are anecdotal reports that individuals in source-country embassies have been illicitly acting as employment brokers for their constituents and funneling them into unfavorable work conditions.

¶20. (SBU) 23G. The Government has carried out numerous raids of "billiard halls," believed to be places that often illegally employ women who have run away from bad labor situations and have few other options legitimate work. There have been newspaper reports of the closure of houses of prostitution and the arrest/deportation of alleged pimps.

¶21. (SBU) 23H. The Government does not, as far as Post knows, provide any specific training on TIP, although one specific police station has responsibility for TIP-related crimes.

¶22. (SBU) 23I. The Government does not, as far as Post knows, cooperate with other governments in prosecuting TIP cases.

¶23. (SBU) 23J. Legally, the GOK will extradite its citizens if a reciprocal extradition treaty exists. In practice, few Kuwaiti citizens have been extradited for the commission of any type of crime outside of Kuwait. Foreign nationals are more likely to be extradited to stand trial for crimes committed outside of Kuwait.

¶24. (SBU) 23K. There is no evidence of Government involvement in or tolerance of trafficking, on a local or institutional level

¶25. (SBU) 23L. N/A.

¶26. (SBU) 23M. N/A.

¶27. (SBU) 23N.

-- ILO Convention 182: August 15, 2000 (ratified)
-- ILO Convention 29: September 23, 1968 (ratified)
-- ILO Convention 105: September 21, 1961 (ratified)
-- The Optional Protocol to the Convention on the Rights of the Child: August 26, 2004 (accession)
-- The Protocol to Prevent, Suppress and Punish Trafficking in Persons: No

¶28. (SBU) 24A. The Government does not have a shelter. Shelter and legal services are provided by the source-country embassies. A

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Kuwaiti-run shelter is in the final stages of governmental approval. All foreign workers in Kuwait have access to very inexpensive health care.

¶29. (SBU) 24B. The government-licensed KUDLO, which, in concert with the Al-Haqooq International legal firm, provides legal services to expatriate laborers. The Indian Embassy has confirmed that it has a contract with KUDLO to send domestic workers with legal problems to KUDLO for legal representation, and that KUDLO/Al-Haqooq has indeed provided these services free of charge. KUDLO's shelter, when licensed, will provide shelter as well as mediation and other legal services.

¶30. (SBU) 24C. There is no screening and referral process, but source country embassies have access to victims, and provide these services.

¶31. (SBU) 24D. The record is mixed. There are cases where victims are treated as criminals and deported. In other cases, their complaints are taken seriously by the police and courts. The Sri Lankan embassy, for instance, employs a Sri Lankan and a Kuwaiti lawyer who provide legal services to domestic workers with complaints. The Sri Lankan lawyer told Post that she is satisfied with the legal process and that the police are generally quite active in their pursuit of cases.

¶32. (SBU) 24E. Post is not aware of efforts to encourage victims to assist in investigations. Victims can and do file suits against

those who violate their legal rights. These cases are often settled out of court, though Post has documented cases of the courts ruling in favor of victims and awarding compensation. While victims may find it hard to access courts and other procedures due to language and knowledge barriers, there is no one actively trying to impede their access. Workers may change employers, though there are restrictions about moving between certain categories of employment, and it usually cannot be done in the first 6 - 12 months of arrival in Kuwait. If an employer violates the labor contract, the employee may file a case to be released from the contract and find another job.

¶33. (SBU) 24F. The de facto system in Kuwait is that these services are provided by the source-country Embassies, which provide legal and material assistance. The Government of Kuwait does not interfere with the Embassies' work.

¶34. (SBU) 24G. Post continues to investigate this issue.

¶35. (SBU) 24H. N/A

¶36. (SBU) 24I. Post knows of no international organizations that actually work with victims. The International Organization for Migration (IOM) has a presence in Kuwait and actively lobbies the Government, but has not enacted programs on the ground.

¶37. (U) The Embassy Kuwait point of contact on TIP issues is Democracy and Human Rights Officer Mark Rosenshield (e-mail: RosenshieldMS@state.gov, phone: +965-259-1690, fax: +965-259-1051). Mark Rosenshield, a first-tour Entry-Level Officer, spends approximately 45% of his time on TIP issues. Post management, including the Ambassador, DCM, and Political Counselor are also deeply involved in TIP report issues.

For more reporting from Embassy Kuwait, visit:
<http://www.state.sgov.gov/p/nea/kuwait/?cable> s

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